

The parties to this claim stipulated to its compensability. The parties further stipulated that the claimant is in need of medical treatment and that he is temporarily and totally disabled. Respondent contends the Administrative Law Judge erred in awarding one-hundred percent (100%) of the cost for temporary total disability and medical treatment against it where the evidence shows that ninety percent (90%) of claimant's current problem is due to his preexisting condition and only ten percent (10%) is due to his work-related injury. Respondent argues that the provisions of K.S.A. 44-501(c) should be applied to not only permanent partial disability, but also to medical treatment and/or

temporary total disability compensation such that the respondent would only be responsible for ten percent (10%) of such costs in this instance.

The Appeals Board finds that K.S.A. 44-501(c) does not apply to preliminary benefits of temporary total disability compensation and medical treatment. The Appeals Board agrees with the rationale of the Administrative Law Judge that to hold otherwise would not be giving credence to other sections of the Workers Compensation Act, in particular, K.S.A. 44-510(a) and K.S.A. 44-510c(b)(2). Accordingly, the Administrative Law Judge did not exceed his jurisdiction, nor did he commit error in awarding the full amount of temporary total disability compensation and medical treatment to be paid by respondent and its insurance carrier.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Alvin E. Witwer, dated March 21, 1995, should be, and is hereby affirmed and remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Diane F. Barger, Emporia, Kansas  
Gary R. Terrill, Overland Park, Kansas  
Kate F. Baird, Prairie Village, Kansas  
Alvin E. Witwer, Administrative Law Judge  
David A. Shufelt, Acting Director